**In the High Court of Punjab and Haryana at Chandigarh**

**C.W.P. No. 10326 of 2006(O&M)**
**Date of Decision: 28.9.2006**

Phool Kumar and another **---Petitioners**

Vs.

State of Haryana and others **---Respondents**

**Coram: Hon'ble Mr. Justice M.M.Kumar**
**Hon'ble Mr. Justice M.M.S.Bedi**

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**Present:** R.N.Sharma,Advocate,
for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana
for the respondents.

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**M.M.Kumar, J.(Oral)**

This petition has been filed under Article 226 of the Constitution for quashing the orders dated 23.6.2006 and 5.7.2006. The respondents by passing the aforementioned order have reduced the pay of the petitioner by withdrawing the benefit of second A.C.P. which was granted to him by counting the period of ad hoc service rendered by him. Accordingly, the recovery has also been ordered.

Mr. R.N.Sharma, learned counsel for the petitioner at the outset states that he does not wish to press the relief for quashing the order refixing the pay and confined the prayer only to the relief of recovery.

According to the learned counsel for the petitioner no recovery from him could be made as there is no misrepresentation or fraud played by him. In support of his submission learned counsel has placed reliance on

the judgment of Hon'ble Supreme Court in the case of **Sahib Ram V. State of Haryana** RSJ 1995(2) 139 SC.

In the written statement the factum of making no representation by the petitioner has not been disputed as is evident from para 7 of the written statement. It is appropriate to mention in the corresponding para of the writ petition that the petitioner has categorically asserted that no misrepresentation to release the benefit of second ACP was made. It was granted by the respondents on their own.

In view of the above, the impugned orders dated 23.6.2006 and 5.7.2006 are quashed to the extent of recovery of excess amount, already paid to the petitioner.

The writ petition is allowed to the above extent.

( M.M.KUMAR)
JUDGE

(M.M.S.BEDI)
JUDGE

September 28, 2006
paramjit